IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.Rev.Pet.No. 1591 of 2007()

CMP.2756/2006 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR
CC.199/06 OF JFCM-III, THRISSUR

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REVN. PETITIONER: 5TH ACCUSED

SAID ALAVI, S/O. HYDRUMAN KUTTY,
VELLARAMPARA HOUSE, THARAKUNNU DESOM,
MANJERI, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON
SRI.G.ASHOK KUMAR

RESPONDENTS: COMPLAINANT/STATE

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1. THE C.B.C.I.D.,
KOZHIKODE.

2. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 1591 OF 2007 D

Dated this the 20th day of July, 2007

O R D E R

The 5th accused in C.C.No.832/03, re-numbered as C.C.N0.199/06, on the file of the JFCM-III, Thrissur, challenges the order dated 20.12.2006 in C.M.P.No.2756/06 passed by the said court dismissing the petition filed by the revision petitioner seeking his discharge.

2. The case of the prosecution can be summarised as follows:-

During the period from 4.7.1991 and 29.7.1991, the 6 accused persons, in furtherance of their common intention, offered visa to the complainant and others with the intention of cheating them after obtaining Rs.400/- and the passport of each of the witnesses with a view to procure medical certificates for them and the accused persons with the help of the 6th accused created forged medical certificates in the name of Dr.Moidu of National Hospital, Kozhikode, and the accused have thereby committed offences under sections 465, 468, 471 and 420 read with section 34 IPC.

3. The learned counsel appearing for the revision petitioner made the following submissions before me in support of the revision:-

Since the petitioner was not available for trial, the case against

him was split up from the main case tried as C.C.No.809/99. The Magistrate after trial, had acquitted the rest of the accused as per Annexure-I judgment dated 6.12.2003 in the main case. The prosecution witnesses did not support the case of the prosecution as against those accused and it will be an exercise in futility if the petitioner stands trial with the very same witnesses.

4. I am afraid that I cannot agree with the above submissions. At the stage of framing charge, the only aspect germane for consideration before the Magistrate is as to whether there exists a prima facie case so as to frame charge. In the first place, Annexure-I judgment to which the petitioner is not a party cannot be looked into. Secondly, the very fact that those accused persons were also placed on trial after framing charge against them indicates that there was sufficient material to frame charge against them and so logically against the petitioner also. The question as to whether the prosecution will succeed or not in proving the charge is something which cannot be predicted at this stage. I see no ground to interfere with the order passed by the court below.

This revision is accordingly dismissed.

(V. RAMKUMAR, JUDGE)

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